

REMARKS

I. Telephonic Interview

The Applicants' attorney, Carissa Tener, conducted an interview with Examiner Pryor on March 8, 2006, wherein the two remaining § 103 rejections were discussed. In the interview, Attorney Tener discussed why one skilled in the art would not combine the teachings of the Cantwell reference with either of the Stenzler or Hole references, since the combination of oxygen gas and nitric oxide gas leads to nitrogen dioxide, a highly toxic substance. Thus, the specific gases of the cited references would not be combined by one of skill in the art, nor would such combination read on the pending claims, which discuss the combination of nitric oxide gas and an agent to treat a wound. Examiner Pryor stated that this argument made sense and that he now believes that the claimed invention is distinguishable over the prior art. Examiner Pryor requested that Attorney Tener make this argument in a written response.

II. Obviousness Rejections over Stenzler in view of Cantwell and Hole et al in view of Cantwell

The Office Action has rejected claims 9-15 and 17-26 under 35 U.S.C. § 103(a) as being unpatentable over Stenzler (U.S. Patent No. 6,432,077) in view of Cantwell (U.S. Patent No. 6,000,403) and claims 9-15 and 17-26 under 35 U.S.C. § 103(a) as being unpatentable over Hole et al (U.S. Publication No. 2002/0138051) in view of Cantwell. The Office Action has equated the oxygen gas disclosed in Cantwell as the (wound healing) agent recited in the claimed invention. As explained above, this Office Action has not established a *prima facie* case of obviousness for either rejection because the combination of the gases taught by the separate references is not desirable and potentially dangerous. Cantwell describes a hyperbaric bandage that may emanate oxygen gas (O₂),

while both Stenzler and Hole discuss uses of nitric oxide gas (gNO). One skilled in the art would not be motivated to combine these references and the specific teachings of the two gases to render an effective wound healing treatment. Nitric oxide (gNO) is rapidly oxidized in the presence of oxygen (O₂) to form nitrogen dioxide (NO₂), a gas which is highly toxic, even at low levels. The very references that the Office Action relies upon discuss the potentially dangerous reaction of the gases to form NO₂. See Hole, [0012]; Stenzler, Col. 2, lns 23-25. Thus, the references would not be combined by one of ordinary skill in the art, nor would one skilled in the art be motivated to do so. Furthermore, the combination of the references does arrive at the pending claimed invention, reciting the combination of nitric oxide gas and an agent used in wound healing.

Thus, Applicants respectfully submit that the rejections of claims 9-15 and 17-26 be withdrawn and a Notice of Allowance be issued for these claims.

If the undersigned can be of any assistance to the Patent Office, a telephone call is respectfully requested. If any fees are required by this filing, the Commissioner is authorized to charge Sidley Austin LLP's Deposit Account # 50-1597.

Respectfully Submitted

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